

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MIKOLAJ BOJDOL, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

v.

NEW FORTRESS ENERGY INC., WESLEY
ROBERT EDENS, CHRISTOPHER S. GUINTA, and
ANDREW DETE,

Defendants

Case No.

**COMPLAINT FOR
VIOLATIONS OF THE
FEDERAL SECURITIES
LAWS**

CLASS ACTION

Demand for Jury Trial

Plaintiff Mikolaj Bojdol (“Plaintiff”), individually and on behalf of all other persons similarly situated, by their undersigned attorneys, alleges in this Complaint for violations of the federal securities laws (the “Complaint”) the following based upon knowledge with respect to his own acts, and upon facts obtained through an investigation conducted by his counsel, which included, inter alia: (a) review and analysis of relevant filings made by New Fortress Energy Inc. (“New Fortress” or the “Company”) with the United States Securities and Exchange Commission (the “SEC”); (b) review and analysis of New Fortress’ public documents, conference calls, press releases, and stock chart; (c) review and analysis of securities analysts’ reports and advisories concerning the Company; and (d) information readily obtainable on the internet.

Plaintiff believes that further substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery. Most of the facts supporting the allegations contained herein are known only to the Defendants or are exclusively within their control.

NATURE OF THE ACTION

1. This is a federal securities class action on behalf of all investors who purchased or otherwise acquired New Fortress securities between February 29, 2024 and August 8, 2024, inclusive (the “Class Period”), seeking to recover damages caused by Defendants’ violations of the federal securities laws (the “Class”).

2. Defendants provided investors with material information concerning New Fortress’ full year 2023 fiscal results and full year 2024 outlook which was based in material part on Defendants’ Illustrative Goal to double metrics in the year 2024, complete terminals and power plants in Brazil and Puerto Rico, and execution on the Fast LNG project in Mexico.

3. Defendants provided these overwhelmingly positive statements to investors while, at the same time, disseminating materially false and misleading statements and/or concealing material adverse facts concerning related to New Fortress’ Fast LNG projects in Mexico, including the FLNG 1 project.

4. On August 9, 2024, the truth emerged when New Fortress published a press release announcing disappointing adjusted EBITDA second quarter 2024 highlights and lowered its guidance for the second half of 2024 accordingly. In pertinent part, New Fortress revealed that its adjusted EBITDA in the second quarter of \$120 million was well below the Company’s expectation of \$275 million. Importantly, the Company attributed disappointing results and lowered guidance to delays in placing the Company’s FLNG 1 project into service, which cost New Fortress \$150 million per quarter in lost operating margin.

5. Investors and analysts reacted immediately to New Fortress’ revelation. The price of New Fortress’ common stock declined dramatically. From a closing market price of \$17.02 per share on August 8, 2024, New Fortress’ stock price fell to \$13.00 per share on August 9, 2024.

JURISDICTION AND VENUE

6. Plaintiff brings this action, on behalf of himself and other similarly situated investors, to recover losses sustained in connection with Defendants' fraud.

7. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §240.10b-5).

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1337, and Section 27 of the Exchange Act, 15 U.S.C. §78aa.

9. Venue is proper in this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b), as Defendant New Fortress is headquartered in this District and a significant portion of its business, actions, and the subsequent damages to Plaintiff and the Class, took place within this District.

10. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mail, interstate telephone communications and the facilities of the national securities exchange.

THE PARTIES

11. Plaintiff purchased New Fortress common stock at artificially inflated prices during the Class Period and was damaged upon the revelation of the Defendants' fraud. Plaintiff's certification evidencing his transaction(s) in New Fortress is attached hereto.

12. New Fortress Energy Inc. is a Delaware corporation with its principal executive offices located at 111 W. 19th Street, 8th Floor, New York, NY 10011. During the Class Period, the

Company's common stock traded on the NASDAQ Stock Market (the "NASDAQ") under the symbol "NFE."

13. Defendant Wesley Robert Edens ("Edens") was, at all relevant times, the Founder, Chairman and Chief Executive Officer of New Fortress.

14. Defendant Christopher S. Guinta ("Guinta") was, at all relevant times, Chief Financial Officer.

15. Defendant Andrew Dete ("Dete") was, at all relevant times, the Executive Officer of New Fortress.

16. Defendants Edens, Guinta, and Dete are sometimes referred to herein as the "Individual Defendants." New Fortress together with the individual Defendants are referred to herein as the "Defendants."

17. The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of New Fortress reports to the SEC, press releases, and presentations to securities analysts, money and portfolio managers, and institutional investors, *i.e.*, the market. Each Individual Defendant was provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, each of these Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each "group-published" information, the result of the collective actions of the Individual Defendants.

18. New Fortress is liable for the acts of its employees under the doctrine of respondeat superior and common law principles of agency as all the wrongful acts complained of herein were carried out within the scope of their employment with authorization.

19. The scienter of the Individual Defendants, and other employees and agents of the Company are similarly imputed to New Fortress under respondeat superior and agency principles.

SUBSTANTIVE ALLEGATIONS

Company Background

20. New Fortress is an American liquefied natural gas (LNG) company. The Company owns and operates natural gas and LNG infrastructure and an integrated fleet of ships and other logistics assets to deliver energy solutions to customers worldwide.

The Defendants Materially Misled Investors Concerning New Fortress' Revenue Outlook for Fiscal Year 2024

February 29, 2024

21. On February 29, 2024, Defendants issued a press release announcing fourth quarter and full year 2023 full year highlights, stating, in relevant part:

Adjusted EBITDA of \$388 million in the fourth quarter of 2023 and \$1.3 billion in the full year 2023; Net income of \$215 million in the fourth quarter of 2023 and \$549 million in the full year 2023...In 2023, we generated significant increases in Funds from Operations per share, more than doubling compared to the full year 2022. Our Illustrative Goal is to nearly double these metrics again in the full year 2024.

22. Defendant Edens further touted New Fortress' "record" year:

This year was a record by all of our reported metrics and importantly, during the second half of the year, there was no profit from Cargo Sales recorded. In other words, all of our performance was a result of downstream operating results. This is a major change in the Company's performance, and a significant and meaningful improvement in both the quality and quantity of our results.

23. New Fortress' operational highlights included a summary about the Company's business in Brazil and Puerto Rico, in pertinent part, below:

In Brazil, we completed the Barcarena and Santa Catarina terminals and placed them into service in February 2024. This marks a significant milestone as it now fully opens our Brazil operations, and we expect to begin generating revenue in March 2024. The Brazilian gas and power markets are growing significantly, and our terminals give us significant opportunities to grow and expand our Company.

In Puerto Rico, we completed the installation of two FEMA Power plants in 2023, totaling 350 MW of capacity. These have become cornerstone plants in the Puerto Rico power complex and were dispatched approximately 99% of the time since installation.

In Fast LNG, we successfully placed our first unit into its location and are now expecting first LNG in March and First Cargo in April 2024. We also secured financing commitments of \$700 million for our second FLNG project located onshore Altamira, Mexico, and expect to complete construction in the first quarter of 2026.

[Emphasis added].

24. Then, on an earnings call the same day, Defendant Edens discussed New Fortress' Fast LNG project, stating, in relevant part:

Our Fast LNG lastly, there's a lot of news around that. So in short term, we installed the first of our facilities. We expect first LNG in the month of March and the first cargo in the month of April. So obviously, we're at the very, very tail end of that project. And while it's been a little bit delayed, it's important to note that it still would be the fastest LNG installation in the history of the planet. So we are always aggressive in terms of our objectives.

25. New Fortress' Investor Presentation also included timelines and clearcut goals regarding its First LNG "solution." Specifically, Defendants stated that the Company's First FLNG facility was "nearing completion" and that the second FLNG facility was "already under construction." Furthermore, Defendants touted "repeatable design & equipment" as well as calling this project "faster" and "cheaper."

26. Defendant Guinta also highlighted the Company's FLNG projects. In pertinent part:

Over the last 3 years, we've assembled an amazing team of employees, contractors and construction partners that have been working around the clock to make our first FLNG unit a reality.

The headline is that we're in the final stages of commissioning and expect first LNG in late March and our first cargo to sale in April, on which I'll go into more detail shortly.

...you can see a recent photo of the FLNG unit on location. With respect to our first FLNG unit, we declared FID in March of 2021, and we will have first LNG in March of 2024, making this the fastest large-scale LNG project ever developed. We've completed over 8 million man-hours of construction to date. We've transported rigs to their location in Altamira, completed the hot tap and introduced feed gas for commissioning. And we have our LNG storage vessel, the NFE Penguin, securely moored and connected to the rigs awaiting LNG loading. Finally, the commissioning and operating teams are aggressively working to produce first LNG, which is scheduled for late March, followed by the first cargo sailing in April.

[Emphasis added].

27. During a question-and-answer segment on the same earnings call, Citigroup analyst Ryan Michael Levine asked management about FLNG 1 project in relation to the Company's capital expenditures. In relevant part:

<Q: Ryan Michael Levine – Citigroup Analyst> You put out a \$1.5 billion gross CapEx number. What's the composition of it? And how much is that FLNG 1 at this stage? And I think in the footnote 21, you mentioned that there's excluded interest capitalization. Is that a material number?

<A: CFO Guinta>: Yes. So of the \$1.25 billion, it really breaks down to a little -- we don't break it up by project, but total FLNG spend in the year is about \$600 million, about \$400 million into Brazil to complete various works on the power plant plus that's an annualized number, right? So that's got some money that's already been spent thus far in Q1. Finally, you've got about \$200 million that we expect to spend on fuel switching in and around Puerto Rico over the next 2 years. And so it's about half in 2024. As far as capitalized interest, yes, that's exclusive in that number, and it's less than \$100 million.

March 25, 2024

28. A special investors call was held on March 25, 2024 in which Defendant Edens responded to a BTIG analyst's question regarding the progress of FLNG:

<Q: Sherif Ehab Elmaghrabi – BTIG Analyst>: ...Just wondering how that delta shakes out and where are we on how FLNG 1 is progressing?

<A: CEO Edens>: ...***So we are, at this point, very matched with FLNG 1 coming online here any day.*** That's roughly 70 TBtus use of gas, FLNG 2, which we're now actually under construction or will be, there's another 70. So that's 140. So that's the supply that we see kind of earmarked for Puerto Rico in the short to intermediate term. And obviously, if we are successful and expand our operations there, we would then look to expand our gas supply as well, which is kind of the next phase of it.

[Emphasis added].

May 8, 2024

29. On May 8, 2024, New Fortress published a press release announcing first quarter 2024 results. Defendant Edens commented, in relevant part:

This has been a tremendous quarter for the company with a number of significant milestones. We have completed the construction of our first FLNG unit and are currently commissioning the asset, with First LNG expected later this month and first full cargo expected in June. We commenced operations in Brazil at both of our LNG terminals and have 2.2 gigawatts of power under construction. Additionally, we completed the sale of the power plants that we developed for FEMA in Puerto Rico and concurrently won an 80 Tbtu island-wide gas contract, paving the way for significant expansion of our business in Puerto Rico. These milestones underscore our commitment to growth, sustainability, and long-term shareholder value.

[Emphasis added].

30. On an earnings call the same day, Defendant Edens gave an update as to the FLNG project stating in pertinent part:

Today, the liquefier is mechanically complete. We are in the final stages of commissioning it. We expect gas in a matter of the next several days, not months. We expect the first cargo in June. This is a culmination of many years of hard work. It represents a huge accomplishment for our team, both here and in the field, represents an incredibly valuable asset for us that we can then finance in a manner of all other LNG projects once it's completed in operations, putting finance against this will allow us to repay significant amounts of corporate debt, lower the cost of our debt and extend the term, which are all very important achievable financial goals for us as a company.

[Emphasis added].

31. New Fortress filed a Form 10-Q with the SEC, wherein the Company disclosed further details about its Fast LNG project. Defendants wrote about projects planned in specific locations, such as Altamira, Louisiana, Brazil, and Ireland, among others. New Fortress wrote, in pertinent part:

We are currently developing multiple modular liquefaction facilities to provide a source of low-cost supply of LNG to customers around the world. We have designed and are constructing liquefaction facilities for our growing customer base that we believe are both faster and more economical to construct than many traditional liquefaction solutions. Our “Fast LNG,” or “FLNG,” design pairs advancements in modular, midsize liquefaction technology with jack up rigs, semi-submersible rigs or similar marine floating infrastructure to enable a lower cost and faster deployment schedule than other greenfield alternatives. Semi-permanently moored floating storage unit(s) (FSUs) will provide LNG storage alongside the floating liquefaction infrastructure, which can be deployed anywhere there is abundant and stranded natural gas. As noted below, we are also in discussions with CFE to utilize our FLNG design in an onshore application.

Our initial Fast LNG units were constructed at the Kiewit Offshore Services shipyard near Corpus Christi, Texas. The Kiewit facility specializes in the fabrication and integration of liquefaction projects. In partnership with Kiewit, we believe we have established an efficient and repeatable process to reduce cost and time to build incremental liquefaction capacity. Our first Fast LNG unit has been deployed offshore to Altamira, Mexico, and *we expect to deploy additional units over the next two years.*

[Emphasis added].

32. The Company further disclosed results of its operations, performing a comparison between the three months ended March 31, 2024 to the three months ended December 31, 2023 and the three months ended March 31, 2023. In relevant part:

Total revenue for the Terminals and Infrastructure Segment decreased by \$47.3 million for the three months ended March 31, 2024 as compared to the three months ended December 31, 2023, and total revenue for the Terminals and Infrastructure Segment increased by \$145.1 million for the three months ended March 31, 2024 as compared to the three months ended March 31, 2023.

The decrease in revenue in the first quarter of 2024 when compared to the fourth quarter of 2023 was primarily attributable to decreases in the market price of natural gas. The average Henry Hub index pricing used to invoice our downstream

customers decreased by 22% for the three months ended March 31, 2024 as compared to the three months ended December 31, 2023. Volumes delivered to downstream terminal customers decreased from 22.2 TBtus in the fourth quarter of 2023 to 22.0 TBtu in the first quarter of 2024.

Cost of sales includes the procurement of feedgas or LNG, as well as shipping and logistics costs to deliver LNG or natural gas to our facilities. Our LNG and natural gas supply are purchased from third parties or converted in our Miami Facility. Costs to convert natural gas to LNG, including labor, depreciation and other direct costs to operate our Miami Facility are also included in Cost of sales. Starting in the third quarter of 2023, our subsidiary, Genera, began to provide operations and maintenance services to PREPA's thermal generation assets, and cost to provide these services is included in Cost of sales. Under our contract with PREPA, we pass all of these costs onto PREPA, and such billings are recognized as revenue.

Cost of sales decreased by \$30.9 million for the three months ended March 31, 2024 as compared to the three months ended December 31, 2023. We incurred additional development service costs of \$19.6 million in the fourth quarter of 2023. When we perform these services for our customers, such costs are reimbursed and revenue is recognized as services are performed. Our cost to deliver natural gas volumes decreased to \$6.96 per MMBtu for the three months ended March 31, 2024 from \$7.08 per MMBtu for the three months ended December 31, 2023.

33. During a Q1 2024 Investor Presentation held on May 8, 2024, Defendants again shared quarterly comparisons. However, during the presentation, these results were portrayed as though New Fortress was a flourishing company, with Defendants writing: “[a]nother strong quarter on sustained customer volumes” and highlighting debt data comparisons between full year 2023 and full year 2024. The bar graph produced showed the target of reducing corporate debt, depicting much debt of 2.6x in full year 2023 and 1.5x in full year 2024. Notably, this depiction failed to point out that this presentation’s data compilation was incomplete, as the Company was only one quarter into 2024.

34. Also during the Investor Presentation, New Fortress once again touted its FLNG market, stating that the “LNG market is anticipated to be elevated for next 4 years.” Defendants noted that New Fortress’ first FLNG unit had reached “mechanical completion” in January 2024,

yet it was still awaiting the “final stages of commissioning” with the first LNG expected in May 2024. Notably, this presentation was given publicly in May 2024.

35. The above statements in Paragraphs 21 to 34 were false and/or materially misleading. Defendants created the false impression that they possessed reliable information pertaining to the Company’s projected revenue outlook and anticipated growth while also minimizing risk regarding the New Fortress’ plan to have its Fast LNG projects fully operational and increase business growth globally. In reality, New Fortress’ Fast LNG projects failed to meet the Company’s publicly stated progress, specifically that its FLNG 1 would be in service by March 2024. Even following the announcement that these delays were costing the Company upwards of \$150 million *per quarter*, Defendants were still touting the speed at which New Fortress was building facilities. Defendants misled investors by providing the public with materially flawed statements of confidence and growth projections throughout the Class Period, which did not account for these variables.

The Truth Emerges

August 9, 2024

36. On August 9, 2024, New Fortress issued a press release announcing disappointing adjusted EBITDA Q2 Fiscal 2024 highlights and accordingly lowered their guidance for the second half of 2024 stating, in relevant part:

Our Adjusted EBITDA in the second quarter of \$120 million was well below our expectation of \$275 million. This was largely the result of delays in placing our FLNG 1 project into service, which was originally expected to occur at the beginning of the second quarter. As detailed in our earnings presentation, the cost of this delay is approximately \$150 million per quarter in lost operating margin, which represents the vast majority of the Adjusted EBITDA shortfall for the quarter.

We are very pleased to report that FLNG 1 is now in service as of July 19 and performing as expected. While we are disappointed in the delay, we believe this

project is by far the fastest LNG facility ever built and positions the Company well to take advantage of the current market for LNG.

Our Adjusted EBITDA in the second quarter does not include \$107 million of contracted LNG sales completed during the quarter, of which \$90 million has been received to date. These sales will be reflected in Adjusted EBITDA and earnings in the second half of this year. For the full calendar year 2024 and 2025, we are forecasting Adjusted EBITDA of \$1.4-1.5 billion, inclusive of the expected resolution of our outstanding early termination claims on our FEMA contracts, and \$1.3 billion, respectively.

37. Defendant Edens further commented on New Fortress' future:

We have a large and expanding business, with a broad and robust portfolio and customers. While we are disappointed in the delay in placing FLNG 1 into service, it is now operational and we are very excited about the future of our business.

38. On an earnings call later that day, Defendant Edens spoke about the disappointing guidance, stating in pertinent part:

Our earnings for the quarter were \$120 million in EBITDA that was well below our target -- our quarterly goal of \$275 million with a miss of \$155 million. The miss was entirely result of the delay in the deployment of our first FLNG 1 asset.

Our goal is to bring this online in April of this year and for a variety of reasons, we missed this by several months. That's the bad news. The good news is we did bring it online last month on July 19, and it's been performing very well since then. This is an incredibly valuable project and bringing it online and the timeline we achieved as a major accomplishment. It's a \$2 billion-plus investment then today's market generates \$500 million a year in free cash flow. So it's highly profitable and has a big impact on the business but as a result of the impact of the delay of even a few months is material and had a big impact on the quarter that we recently concluded.

Obviously, to the extent we sell more gas or more power these numbers go up. We've invested approximately \$8 billion to create this portfolio of gas and ships and power plants and terminals and that investment is now behind us. And thus, our goal is to grow organically from here with little or no additional CapEx. The deployment of the FLNG asset represents a watershed event for us with respect to our investment activities, and now we are singularly focused on organic earnings and free cash flow.

[Emphasis added].

39. Defendant Dete addressed the Company's capital expenditures and its FLNG projects stating, in relevant part:

The next thing I want to walk through is basically how we're going to kind of continue to create more overall cash for debt service to deleverage and then more, of course, free cash flow available for equity holders. And the first thing to kind of make that point is to show our CapEx. So Page 13 is a CapEx overview for the remaining part of 2024 and then into 2025. The key point here is, obviously, we're done with FLNG 1. So our CapEx is going down precipitously. We've got kind of small bite-size CapEx on our downstream projects to finish those out and start generating revenues in 2025. You can see Brazil, Mexico, Nicaragua, Puerto Rico here on the page. That leads to about \$128 million of net CapEx through the end of the year.

...So our FLNG 1 asset, 30-year useful life, \$2 billion replacement cost, and we expect to have \$250 million of kind of annual cash flow at the asset. So we're showing illustrative asset debt of about \$1.5 billion, which we think is very achievable. On the right side, NFE Brazil, 18-year average contract duration, \$500 million of run rate EBITDA in 2026, 2.2 gigawatts of power plants, 46 TBtus of firm gas sales. And we expect almost \$4 billion of enterprise value in 2026, which is a simple 8x the \$500 million of contracted EBITDA on that \$4 billion of enterprise value, we'll have about \$1 billion of long-term asset level leverage, which we're using for construction.

40. The aforementioned press releases and statements made by the Individual Defendants are in direct contrast to statements they made during the February 29, 2024 earnings call. During the call, New Fortress' executives continually touted the Company's FLNG projects and confidence in the business's overall momentum. Moreover, New Fortress continued to minimize risks associated with its global expansion and extreme risks the Company faced with construction and commissioning delays.

41. Investors and analysts reacted immediately to New Fortress' revelation. The price of New Fortress' common stock declined dramatically. From a closing market price of \$17.02 per share on August 8, 2024, New Fortress' stock price fell to \$13.00 per share on August 9, 2024.

42. A number of well-known analysts who had been following New Fortress set their guidance to Hold in response to New Fortress' disclosures. Deutsche Bank commented on New

Fortress’ capital expenditures, in relevant part, “Capital expenditures came in higher than expected at \$662 MM for the quarter, almost twice the amount expected by the Street.”

43. Similarly, J.P. Morgan also released commentary on the Company’s guidance, stating: “After years of overly aggressive and opaque guidance and the ~7 month delay on FLNG1, the company appropriately reracked guidance and added substantially more detail in the 2Q24 presentation”

44. The fact that these analysts, and others, discussed New Fortress’ shortfall and below-expectation projections suggests the public placed significant weight on New Fortress’ statements of prior confidence in their First LNG project, which aimed to elevate the Company by creating a more efficient way to deploy its solutions globally. Moreover, during New Fortress’ Q4 2023 and Q1 2024 Investor Presentations the Company touted its ability to quickly construct and commission its LNG projects, claiming the First Fast LNG facility was complete, when that only referred to the build, and not to the commissioning of such unit. Similarly, New Fortress emphasized international growth via a multitude of new projects planned, touting “faster” and “cheaper” construction and Illustrative Goal to double its metrics in 2024. The frequent, in-depth discussion of New Fortress’ guidance confirms that Defendants’ statements during the Class Period were material.

Loss Causation and Economic Loss

45. During the Class Period, as detailed herein, Defendants made materially false and misleading statements and engaged in a scheme to deceive the market and a course of conduct that artificially inflated the price of New Fortress’ common stock and operated as a fraud or deceit on Class Period purchasers of New Fortress’ common stock by materially misleading the investing public. Later, Defendants’ prior misrepresentations and fraudulent conduct became apparent to the

market, the price of New Fortress' common stock materially declined, as the prior artificial inflation came out of the price over time. As a result of their purchases of New Fortress' common stock during the Class Period, Plaintiff and other members of the Class suffered economic loss, *i.e.*, damages under federal securities laws.

46. New Fortress' stock price fell in response to the corrective event on August 9, 2024, as alleged *supra*. On August 9, 2024, Defendants disclosed information that was directly related to their prior misrepresentations and material omissions concerning New Fortress' forecasting processes and growth guidance.

47. In particular, on August 9, 2024, New Fortress announced significantly below-market growth expectations for fiscal year 2024, actually citing major delays relating to its Fast LNG project. This projection was well below the market expectations generated by New Fortress' own previous reports of economic growth and internal growth projections provided throughout the first half of fiscal year 2024.

Presumption of Reliance; Fraud-On-The-Market

48. At all relevant times, the market for New Fortress' common stock was an efficient market for the following reasons, among others:

- (a) New Fortress' common stock met the requirements for listing and was listed and actively traded on the NASDAQ during the Class Period, a highly efficient and automated market;
- (b) New Fortress communicated with public investors via established market communication mechanisms, including disseminations of press releases on the national circuits of major newswire services

and other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;

- (c) New Fortress was followed by several securities analysts employed by major brokerage firms who wrote reports that were distributed to the sales force and certain customers of their respective brokerage firms during the Class Period. Each of these reports was publicly available and entered the public marketplace; and
- (d) Unexpected material news about New Fortress was reflected in and incorporated into the Company's stock price during the Class Period.

49. As a result of the foregoing, the market for New Fortress' common stock promptly digested current information regarding the Company from all publicly available sources and reflected such information in New Fortress' stock price. Under these circumstances, all purchasers of New Fortress' common stock during the Class Period suffered similar injury through their purchase of New Fortress' securities at artificially inflated prices, and a presumption of reliance applies.

50. Alternatively, reliance need not be proven in this action because the action involves omissions and deficient disclosures. Positive proof of reliance is not a prerequisite to recovery pursuant to ruling of the United States Supreme Court in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972). All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered the omitted information important in deciding whether to buy or sell the subject security.

No Safe Harbor; Inapplicability of Bespeaks Caution Doctrine

51. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the material misrepresentations and omissions alleged in this Complaint. As alleged above, Defendants' liability stems from the fact that they provided investors with revenue projections while at the same time failing to maintain adequate forecasting processes. Defendants provided the public with forecasts that failed to account for this decline in sales and/or adequately disclose the fact that the Company at the current time did not have adequate forecasting processes.

52. To the extent certain of the statements alleged to be misleading or inaccurate may be characterized as forward looking, they were not identified as "forward-looking statements" when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

53. Defendants are also liable for any false or misleading "forward-looking statements" pleaded because, at the time each "forward-looking statement" was made, the speaker knew the "forward-looking statement" was false or misleading and the "forward-looking statement" was authorized and/or approved by an executive officer of New Fortress who knew that the "forward-looking statement" was false. Alternatively, none of the historic or present-tense statements made by Defendants were assumptions underlying or relating to any plan, projection, or statement of future economic performance, as they were not stated to be such assumptions underlying or relating to any projection or statement of future economic performance when made, nor were any of the projections or forecasts made by the defendants expressly related to or stated to be dependent on those historic or present-tense statements when made.

CLASS ACTION ALLEGATIONS

54. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired New Fortress' securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosure. Excluded from the Class are defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

55. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, New Fortress' securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by New Fortress or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions. As of August 6, 2024, there were approximately 205 million shares of the Company's common stock outstanding. Upon information and belief, these shares are held by thousands, if not millions, of individuals located throughout the country and possibly the world. Joinder would be highly impracticable.

56. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

57. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

58. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether the federal securities laws were violated by Defendants' acts as alleged herein;
- (b) whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of New Fortress;
- (c) whether the Individual Defendants caused New Fortress to issue false and misleading financial statements during the Class Period;
- (d) whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;
- (e) whether the prices of New Fortress' common stock during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- (f) whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

59. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden

of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

COUNT I

**Against All Defendants for Violations of
Section 10(b) and Rule 10b-5 Promulgated Thereunder**

60. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

61. This Count is asserted against defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

62. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of New Fortress common stock; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire New Fortress' securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

63. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described

above, including statements made to securities analysts and the media that were designed to influence the market for New Fortress' securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company.

64. By virtue of their positions at the Company, Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to Defendants. Said acts and omissions of defendants were committed willfully or with reckless disregard for the truth. In addition, each defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

65. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within defendants' knowledge and control. As the senior managers and/or directors of the Company, the Individual Defendants had knowledge of the details of New Fortress' internal affairs.

66. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of the Company. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to New Fortress' businesses, operations, future financial condition and future prospects. As a result of the

dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of New Fortress' common stock was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning the Company which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired New Fortress' common stock at artificially inflated prices and relied upon the price of the common stock, the integrity of the market for the common stock and/or upon statements disseminated by Defendants, and were damaged thereby.

67. During the Class Period, New Fortress' common stock was traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and misleading statements described herein, which the defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of New Fortress' common stock at prices artificially inflated by defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said common stock, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of New Fortress' common stock was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of New Fortress' common stock declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

68. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

69. As a direct and proximate result of defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's common stock during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

COUNT II

Against the Individual Defendants for Violations of Section 20(a) of the Exchange Act

70. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

71. During the Class Period, the Individual Defendants participated in the operation and management of the Company, and conducted and participated, directly and indirectly, in the conduct of the Company's business affairs. Because of their senior positions, they knew the adverse non-public information about New Fortress' misstatements.

72. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information, and to correct promptly any public statements issued by New Fortress which had become materially false or misleading.

73. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which New Fortress disseminated in the marketplace during the Class Period concerning the misrepresentations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause New Fortress to engage in the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling persons" of the Company within the meaning of Section 20(a) of the Exchange Act. In this capacity, they

participated in the unlawful conduct alleged which artificially inflated the market price of New Fortress' common stock.

74. Each of the Individual Defendants, therefore, acted as a controlling person of the Company. By reason of their senior management positions and/or being directors of the Company, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause New Fortress to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of the Company and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

75. By reason of the above conduct, New Fortress is liable pursuant to Section 20(a) of the Exchange Act for the violations committed by the Company.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demand judgment against defendants as follows:

- A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representatives;
- B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;
- C. Awarding Plaintiff and the other members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and
- D. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury.

Dated: September 17, 2024

Respectfully submitted,

LEVI & KORSINSKY, LLP

/s/ Adam M. Apton _____

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